

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**PATRICK DAVID DUGAN
6152 Nutwood Circle
Huntington Beach, CA 92647**

**Certified Public Accountant Certificate
No. 49647**

**Dugan & Associates, CPA,
Fictitious Name Permit No. 1122**

Respondent.

Case No. AC-2011-3

OAH No. 2011090509

DECISION AND ORDER


The attached Stipulated Surrender of License and Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on

September 1, 2012.

It is so ORDERED

August 2, 2012.


FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 ERIN M. SUNSERI
Deputy Attorney General
4 State Bar No. 207031
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2071
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2011-3

12 **PATRICK DAVID DUGAN**
13 **6152 Nutwood Circle**
14 **Huntington Beach, CA 92647**

OAH No. 2011090509

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 **Certified Public Accountant Certificate**
16 **No. 49647**

17 **Dugan & Associates, CPA,**
Fictitious Name Permit No. 1122

18 Respondent.
19

20 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
21 proceeding that the following matters are true:

22 **PARTIES**

23 1. Patti Bowers (Complainant) is the Executive Officer of the California Board of
24 Accountancy. She brought this action solely in her official capacity and is represented in this
25 matter by Kamala D. Harris, Attorney General of the State of California, by Erin M. Sunseri,
26 Deputy Attorney General.
27
28

2. Patrick David Dugan (Respondent) is represented in this proceeding by attorney Fredrick M. Ray, whose address is: 1100 W. Town and Country Road, Suite 1010, Orange, CA 92868.

3. On or about January 29, 1988, the California Board of Accountancy issued Certified Public Accountant Certificate No. 49647 to Respondent. The Certified Public Accountant Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. AC-2011-3 and will expire on June 30, 2012, unless renewed.

4. On or about July 18, 2001, the California Board of Accountancy issued Fictitious Name Permit (FNP) No. 1122 to Respondent. The Fictitious Name Permit was in full force and effect at all times relevant to the charges brought in Accusation No. AC-2011-3 and was cancelled on July 31, 2011.

JURISDICTION

5. The First Amended Accusation No. AC-2011-3 was filed before the California Board of Accountancy (CBA), Department of Consumer Affairs, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on November 18, 2011. Respondent timely filed his Notice of Defense contesting the First Amended Accusation. A copy of the First Amended Accusation No. AC-2011-3 is attached as Exhibit "A" and incorporated by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in the First Amended Accusation No. AC-2011-3. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision;

1 and all other rights accorded by the California Administrative Procedure Act and other applicable
2 laws.

3 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
4 every right set forth above.

5 CULPABILITY

6 9. Respondent admits the truth of each and every charge and allegation in the First,
7 Second, and Third Causes for Discipline in First Amended Accusation No. AC-2011-3. For the
8 purpose of resolving the First Amended Accusation without the expense and uncertainty of
9 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
10 basis for the Fourth Cause for Discipline in the First Amended Accusation and that those charges
11 constitute cause for discipline. Respondent hereby gives up his right to contest that cause for
12 discipline exists based on the Fourth and Fifth Causes for Discipline; however, Respondent does
13 not admit nor agree with the allegations set forth in the Fifth Cause for Discipline, and
14 specifically denies the allegations contained in the Fifth Cause for Discipline. Respondent agrees
15 that cause exists for discipline on the First, Second, Third and Fourth Causes for Discipline in the
16 First Amended Accusation. Respondent hereby surrenders his Certified Public Accountant
17 Certificate No. 49647 and his Fictitious Name Permit No. 1122 for the CBA's formal acceptance.

18 10. Respondent understands that by signing this stipulation he enables the CBA to issue
19 an order accepting the surrender of his Certified Public Accountant Certificate without further
20 process.

21 CONTINGENCY

22 11. This stipulation shall be subject to approval by the California Board of Accountancy.
23 Respondent understands and agrees that counsel for Complainant and the staff of the California
24 Board of Accountancy may communicate directly with the CBA regarding this stipulation and
25 surrender, without notice to or participation by Respondent or his counsel. By signing the
26 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
27 to rescind the stipulation prior to the time the CBA considers and acts upon it. If the CBA fails to
28 adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order

1 shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
2 between the parties, and the CBA shall not be disqualified from further action by having
3 considered this matter.

4 12. The parties understand and agree that facsimile copies of this Stipulated Surrender of
5 License and Order, including facsimile signatures thereto, shall have the same force and effect as
6 the originals.

7 13. This Stipulated Surrender of License and Order is intended by the parties to be an
8 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
9 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
10 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
11 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
12 executed by an authorized representative of each of the parties.

13 14. In consideration of the foregoing admissions and stipulations, the parties agree that
14 the CBA may, without further notice or formal proceeding, issue and enter the following Order:

15 **ORDER**

16 IT IS HEREBY ORDERED that Certified Public Accountant Certificate No. 49647, and
17 Fictitious Name Permit 1122, issued to Respondent Patrick David Dugan, are surrendered and
18 accepted by the California Board of Accountancy.

19 1. The surrender of Respondent's Certified Public Accountant Certificate and Fictitious
20 Name Permit, and the acceptance of the surrendered license and permit by the CBA, shall
21 constitute the imposition of discipline against Respondent. This stipulation constitutes a record of
22 the discipline and shall become a part of Respondent's license history with the California Board
23 of Accountancy.

24 2. Respondent shall lose all rights and privileges as a Certified Public Accountant in
25 California as of the effective date of the CBA's Decision and Order.

26 3. Respondent shall cause to be delivered to the CBA his pocket license and, if one was
27 issued, his wall certificate on or before the effective date of the Decision and Order.

28 ///

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the CBA shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in the First, Second and Third Causes for Discipline in First Amended Accusation No. AC-2011-3 shall be deemed to be true, correct and admitted by Respondent when the CBA determines whether to grant or deny the petition.


5. Respondent shall pay the California Board of Accountancy its costs of investigation and enforcement in the amount of \$10,631.33 prior to issuance of a new or reinstated license.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other licensing agency in the State of California, all of the charges and allegations contained in First, Second, and Third Causes for Discipline in the First Amended Accusation, No. AC-2011-3 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Fredrick M. Ray. I understand the stipulation and the effect it will have on my Certified Public Accountant Certificate and my Fictitious Name Permit. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Accountancy.

DATED:


PATRICK DAVID DUGAN
Respondent

111

III

III

1 I have read and fully discussed with Respondent Patrick David Dugan the terms and
2 conditions and other matters contained in this Stipulated Surrender of License and Order. I
3 approve its form and content.

4
5 DATED:

June 15, 2012

Fredrick M. Ray
FREDRICK M. RAY

Attorney for Respondent

6
7
8 **ENDORSEMENT**

9 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
10 for consideration by the California Board of Accountancy of the Department of Consumer
11 Affairs.

12 Dated:

6-15-2012

Respectfully submitted,

KAMALA D. HARRIS

Attorney General of California

JAMES M. LEDAKIS

Supervising Deputy Attorney General

Erin M. Sunseri
ERIN M. SUNSERI

Deputy Attorney General

Attorneys for Complainant

13
14
15
16
17
18
19
20
21 SD2010703589

70569844.doc

Exhibit A

First Amended Accusation No. AC-2011-3

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 ERIN M. SUNSERI
Deputy Attorney General
4 State Bar No. 207031
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2071
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2011-3

12 **PATRICK DAVID DUGAN**
13 **6152 Nutwood Circle**
14 **Huntington Beach, CA 92647**
15 **Certified Public Accountant Certificate**
16 **No. 49647**

FIRST AMENDED
ACCUSATION

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as
21 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.

22 2. On or about January 29, 1988, the California Board of Accountancy issued Certified
23 Public Accountant Certificate Number 49647 (Certificate) to Patrick David Dugan (Respondent).
24 The Certificate is subject to renewal every two years pursuant to California Business and
25 Professions Code section 5070.5. The applicable renewal period for this Certificate begins July 1
26 of even-numbered years.

27 3. The Certificate was expired and was not valid during the period July 1, 2000 through
28 June 25, 2001, for the following reasons:

1 any investigation of or action or disciplinary proceeding against the licensee, or to render a
2 decision suspending or revoking the license.

3 13. Section 5070.6 states, in pertinent part:

4 Except as otherwise provided in [Chapter 1, commencing with section 5000.1], an expired
5 permit may be renewed at any time within five years after its expiration upon the filing of an
6 application for renewal on a form prescribed by the board, payment of all accrued and unpaid
7 renewal fees and providing evidence satisfactory to the board of compliance as required by
8 Section 5070.5...

9 14. Section 5100 states, in pertinent part:

10 After notice and hearing the board may revoke, suspend, or refuse to renew any permit or
11 certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing
12 with Section 5080), or may censure the holder of that permit or certificate for unprofessional
13 conduct that includes, but is not limited to, one or any combination of the following causes:

14

15 (a) Conviction of any crime substantially related to the qualifications, functions and duties
16 of a certified public accountant or a public accountant...

17

18 (g) Willful violation of this chapter or any rule or regulation promulgated by the board
19 under the authority granted under this chapter...

20

21 (i) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

22

23 (k) Embezzlement, theft, misappropriation of funds or property, or obtaining money,
24 property, or other valuable consideration by fraudulent means or false pretenses.

25

26 ///

27 ///

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2

3
4
5
6

7

8
9
10

11
12
13

14

15

16
17
18
19
20
21
22
23

24
25
26
27

1 a fiduciary responsibility, or the preparation, publication, or dissemination of false, fraudulent, or
2 materially misleading financial statements, reports or information.

3 18. Section 5106 states, in pertinent part, that a plea or verdict of guilty or a conviction
4 following a plea of nolo contendere is deemed to be a conviction within the meaning of this
5 article. The record of the conviction shall be conclusive evidence thereof.

6 19. Section 5121 states, in pertinent part, that the display or uttering by a person of a
7 card, sign, advertisement or other printed, engraved or written instrument or device, bearing a
8 person's name in conjunction with the words 'certified public accountant' or any abbreviation
9 thereof or the words 'public accountant' or any abbreviation thereof shall be prima facie evidence
10 in any prosecution, proceeding or hearing brought under this article that the person whose name is
11 so displayed caused or procured the display or uttering of such card, sign, advertisement or other
12 printed, engraved or written instrument or device. Any such display or uttering shall be prima
13 facie evidence that the person whose name is so displayed holds himself or herself out as a
14 certified public accountant, or a public accountant holding a permit to practice public
15 accountancy in this State under the provisions of this chapter. In any prosecution or hearing
16 under this chapter, evidence of the commission of a single act prohibited by this chapter shall be
17 sufficient to justify a conviction without evidence of a general course of conduct.

18 20. Section 490 of the Code provides, in pertinent part, that a board may suspend or
19 revoke a license on the ground that the licensee has been convicted of a crime substantially
20 related to the qualifications, functions, or duties of the business or profession for which the
21 license was issued.

22 21. California Code of Regulations, Title 16, section 52, states in pertinent part that a
23 licensee shall respond to any inquiry by the Board or its appointed representatives within 30 days.
24 The response shall include making available all files, working papers, and other documents
25 requested. A licensee shall respond to any subpoena issued by the Board or its executive officer
26 or the assistant executive officer in the absence of the executive officer within 30 days and in
27 accordance with the provisions of the Accountancy Act and other applicable laws or regulations.
28 A licensee shall appear in person upon written notice or subpoena issued by the Board or its

1 executive officer or the assistant executive officer in the absence of the executive officer. A
2 licensee shall provide true and accurate information and responses to questions, subpoenas,
3 interrogatories or other requests for information or documents and not take any action to obstruct
4 any Board inquiry, investigation, hearing or proceeding.

5 COST RECOVERY

6 22. Section 5107(a) of the Code states, in pertinent part, that the executive officer of the
7 board may request the administrative law judge, as part of the proposed decision in a disciplinary
8 proceeding, to direct any holder of a permit or certificate found to have committed a violation or
9 violations of this chapter to pay to the board all reasonable costs of investigation and prosecution
10 of the case, including, but not limited to, attorneys' fees. The board shall not recover costs
11 incurred at the administrative hearing.

12 FIRST CAUSE FOR DISCIPLINE

13 (March 30, 2010 Criminal Convictions for Grand Theft
14 by Embezzlement and Money Laundering)

15 23. Respondent is subject to disciplinary action under Business and Professions Code
16 sections 490 and 5100(a), in that he was convicted of crimes that are substantially related to the
17 qualifications, functions, and duties of a certified public accountant. The circumstances are as
18 follows:

19 a. On or about March 30, 2010, in the matter of *The People of the State of*
20 *California v. Patrick David Dugan*, in Orange County Superior Court, Case No. 09CF2167,
21 Respondent was convicted on his plea of guilty to a violation of Penal Code section 487(a) (grand
22 theft); and two counts of violation of Penal Code section 186.10(a) (money laundering). As part
23 of his plea agreement, Respondent stated that on or about and between December 28, 2005 and
24 December 26, 2007, Respondent willfully, unlawfully and fraudulently stole \$49,000.00 from the
25 Rotary Club of Los Alamitos and Seal Beach, which had been entrusted to him as their treasurer;
26 Respondent admitted he unlawfully conducted transactions exceeding \$5,000.00 within a seven
27 day period on December 28, 2005 and February 15, 2006....through a financial institution...with
28

1 the intent to carry on, facilitate, manage and promote criminal activity, knowing the proceeds
2 were derived directly and indirectly from the proceeds of criminal activity, namely grand theft.

3 b. As a result of the convictions, on or about March 30, 2010, Respondent was
4 sentenced to serve 90 days in Orange County Jail, three years formal probation, and payment of
5 fines and fees in the amount of \$520.00.

6 c. The facts that lead to the convictions were that beginning on or about
7 December 28, 2005, Respondent began stealing funds while he served as the treasurer for the Los
8 Alamitos Rotary Club. In April 2008, the president and president-elect of the Rotary Club
9 discovered the missing funds, and on or about May 2, 2008, they confronted Respondent
10 regarding the missing funds. On or about May 5, 2008, Respondent had replenished the Rotary
11 Club accounts with all of the missing funds. On or about May 15, 2008, the president of the
12 Rotary Club reported the matter to the police, and a criminal prosecution followed.

13 **SECOND CAUSE FOR DISCIPLINE**

14 (Fiscal Dishonesty and Breach of Fiduciary Duty)

15 24. Complainant incorporates by reference as though fully set forth herein the allegations
16 contained in paragraphs 1-23, above.

17 25. Respondent is subject to disciplinary action under Business and Professions Code
18 section 5100(i), for fiscal dishonesty and breach of fiduciary duty, in that Respondent admitted
19 that on or about and between December 28, 2005 and December 26, 2007, Respondent willfully,
20 unlawfully and fraudulently stole \$49,000.00 from the Rotary Club of Los Alamitos and Seal
21 Beach, which had been entrusted to him as their treasurer; Respondent admitted he unlawfully
22 conducted transactions exceeding \$5,000.00 within a seven day period on December 28, 2005 and
23 February 15, 2006....through a financial institution...with the intent to carry on, facilitate,
24 manage and promote criminal activity, knowing the proceeds were derived directly and indirectly
25 from the proceeds of criminal activity, namely grand theft.

26 ///

27 ///

28 ///

1 THIRD CAUSE FOR DISCIPLINE

2 (Grand Theft by Embezzlement)

3 26. Complainant incorporates by reference as though fully set forth herein the allegations
4 contained in paragraphs 23-25, above.

5 27. Respondent is subject to disciplinary action under Business and Professions Code
6 section 5100(k), for embezzlement and theft, in that on or about March 30, 2010, in the matter of
7 *The People of the State of California v. Patrick David Dugan*, in Orange County Superior Court,
8 Case No. 09CF2167, Respondent was convicted on his plea of guilty to a violation of Penal Code
9 section 487(a) (grand theft); and two counts of violation of Penal Code section 186.10(a) (money
10 laundering). As part of his plea agreement, Respondent stated that on or about and between
11 December 28, 2005 and December 26, 2007, Respondent willfully, unlawfully and fraudulently
12 stole \$49,000.00 from the Rotary Club of Los Alamitos and Seal Beach, which had been
13 entrusted to him as their treasurer; Respondent admitted he unlawfully conducted transactions
14 exceeding \$5,000.00 within a seven day period on December 28, 2005 and February 15,
15 2006....through a financial institution...with the intent to carry on, facilitate, manage and
16 promote criminal activity, knowing the proceeds were derived directly and indirectly from the
17 proceeds of criminal activity, namely grand theft.

18 FOURTH CAUSE FOR DISCIPLINE

19 (Misleading Use of Title)

20 28. Complainant incorporates by reference as though fully set forth herein the allegations
21 contained in paragraphs 23-27, above.

22 29. Respondent is subject to disciplinary action under Business and Professions Code
23 sections 5100(g), 5050, 5051 and 5121, in that he has repeatedly continued to hold himself out as
24 a licensed Certified Public Accountant by way of the display or uttering of a card, sign,
25 advertisement or other printed, engraved or written instrument or device, bearing his name in
26 conjunction with the abbreviation "cpa," while his Certificate is "inactive" and he is not legally
27 licensed to practice as a Certified Public Accountant. The facts and circumstances are as follows:
28

a. On or about January 8, 2011, Respondent sent an email to a prospective client with the subject "new contact info," and asking the client to let him know if he can "help her" this year. Respondent solicited this prospective client via email while using the "cpa" designation in his email domain name, "dave@dugan CPA.com."

b. On or about October 7, 2011, Respondent, through his counsel, filed a "Notice of Motion for Court to Terminate Probation" in the matter of *The People of the State of California v. Patrick David Dugan*, in Orange County Superior Court, Case No. 09CF2167. Respondent attached a Declaration to the Motion stating that he has "voluntarily given up" his "license from accountancy board." The attachment following the Declaration is Respondent's "resume," which states his name as "DAVID DUGAN, CPA," and his email address as "dave@dugancpa.com." Respondent lists his "1988 to present" employment as "CPA Dugan & Associates." Respondent filed this Motion to request the Court both terminate his criminal probation early, and reduce his felony conviction(s) to misdemeanor(s). Respondent provided the Court with documentation using the "cpa" designation repeatedly, despite both his own claim that he has "voluntarily given up" his "license from accountancy board," and while his Certificate is "inactive" and he is not legally licensed to practice as a Certified Public Accountant.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Timely Report Felony Conviction)

30. Complainant incorporates by reference as though fully set forth herein the allegations contained in paragraphs 23-29, above.

31. Respondent is subject to disciplinary action under Business and Professions Code sections 5100(g) and 5063, in conjunction with California Code of Regulations Title 16, section 52, as follows:

a. Respondent failed to report in writing to the Board within 30 days that he had been convicted of a felony, or any crime related to the qualifications, functions, or duties of a licensee or committed in the course and scope of practice of public accountancy; or involving theft, embezzlement, misappropriation of funds or property, breach of a fiduciary responsibility, or the preparation, publication, or dissemination of false, fraudulent, or materially misleading

1 financial statements, reports or information, as required pursuant to Code section 5063.
2 Respondent was convicted on March 30, 2010, as detailed above. On April 13, 2010, an
3 enforcement analyst for the Board sent Respondent a letter requesting a written explanation of the
4 facts underlying his conviction. On May 13, 2010, Respondent provided a License Reporting
5 Form on Reportable Events and reported his felony convictions, entered on March 30, 2010, and
6 provided an explanation, more than 30 days after the date of the conviction.

7 **PRAYER**

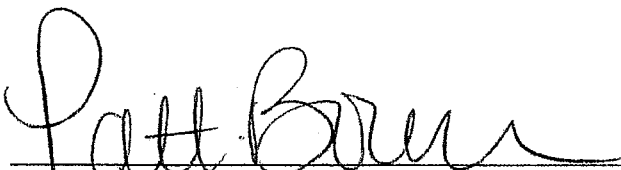
8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the California Board of Accountancy issue a decision:

10 1. Revoking or suspending or otherwise imposing discipline upon Certified Public
11 Accountant Certificate Number 49647, issued to Patrick David Dugan;

12 2. Ordering Patrick David Dugan to pay the California Board of Accountancy the
13 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
14 Professions Code section 5107;

15 3. Taking such other and further action as deemed necessary and proper.

16
17
18 DATED: November 7, 2011


PATTI BOWERS
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

19
20
21
22
23 SD2010703589
24 80482067.doc
25
26
27
28